

1 Nico Banks (CA SBN:344705)  
2 **BANKS LAW OFFICE**  
3 712 H St NE, Unit #8571  
4 Washington, DC 20002  
5 Tel.: 971-678-0036  
6 Email: [nico@bankslawoffice.com](mailto:nico@bankslawoffice.com)

7 Richard A. Nervig (CA SBN:226449)  
8 **RICHARD A. NERVIG, P.C.**  
9 501 West Broadway, Suite 800  
10 San Diego, CA 92101  
11 Phone: 760-451-2300  
12 Email: [richard@nerviglaw.com](mailto:richard@nerviglaw.com)

13 ***Attorneys for Plaintiffs***

14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 DAVID HOUGH; *et al.* Plaintiffs, } Case No.: 2:24-cv-02886-WLH  
17 vs. } PLAINTIFFS' RENEWED  
18 RYAN CARROLL; *et al.* Defendants. } MOTION TO EFFECT  
19 } SUBSTITUTE SERVICE ON  
20 } DEFENDANT JARED DAY  
21 } Presiding Judge: Hon. Wesley L. Hsu  
22 } Hearing: November 15, 2024, 1:30 p.m.  
23 } Trial Date: N/A  
24 }  
25 }  
26 }  
27 }  
28 }

29 **PLAINTIFFS' RENEWED MOTION TO EFFECT SUBSTITUTE SERVICE**  
30 **ON DEFENDANT JARED DAY**

31 Plaintiffs submit this renewed motion requesting the Court's permission to  
32 effect service of the summons and complaint on Defendant Jared Day by mail. On  
33 September 10, 2024, the Court denied Plaintiffs' original motion requesting substitute  
34 service.

1 service, noting that Plaintiffs had not yet exhausted their options to serve Jared Day  
2 without leave of Court. (ECF 135). In the same order, the Court ordered Plaintiffs to  
3 effect service on Jared Day within 30 days. (*Id.*).

4 Plaintiffs have now exhausted methods of service available under federal law,  
5 Texas law, and California law. *See* Fed. R. Civ. P. 4(e); Cal Code of Civ. P. § 415.10-  
6 415.95; Tex. R. Civ. P. 106. In particular, as described in the original motion  
7 requesting substitute service, Plaintiffs attempted to deliver a copy of the summons  
8 and the complaint to Jared Day personally, and Plaintiffs also attempted to leave a  
9 copy of the summons and complaint at his dwelling with (or in the presence of)  
10 someone of suitable age and discretion who resides there. *See* Fed. R. Civ. P.  
11 4(e)(2)(A-B); Cal Code of Civ. P. § 415.10-20. The attempts were unsuccessful  
12 because Jared Day and the members of his household refused to answer the door. *See*  
13 Exhibit A.

14 Furthermore, on September 17, 2024 (after the Court entered an Order denying  
15 Plaintiffs' original request to effect substitute service), Plaintiffs mailed to Jared Day  
16 the summons and complaint with return receipt requested. The service was  
17 unsuccessful because Jared Day did not sign the return receipt. (*See* Plaintiffs'  
18 Attorney Declaration Supporting Motion For Substitute Service); *see* Cal. Civ. Proc.  
19 Code § 415.40 ("A summons may be served on a person outside this state in any  
20 manner provided by this article or by sending a copy of the summons and of the  
21 complaint to the person to be served by first-class mail, postage prepaid, requiring a  
22  
23  
24  
25  
26  
27  
28

1 return receipt.”); Cal. Code Civ. Proc. § 417.20(a) (“if service is made by mail  
2 pursuant to Section 415.40, proof of service shall include evidence satisfactory to the  
3 court establishing actual delivery to the person to be served, by a signed return receipt  
4 or other evidence;”); Tex. R. Civ. P. 107 (“When the citation was served by  
5 registered or certified mail as authorized by Rule 106, the return by the officer or  
6 authorized person must also contain the return receipt with the addressee's  
7 signature.”).

10 Accordingly, Plaintiffs have now exhausted all methods for attempting to  
11 effect service without leave of court. Plaintiffs, therefore, respectfully renew their  
12 request that the Court authorize Plaintiffs to serve Defendant Jared Day by mailing  
13 the summons and first amended complaint via first-class mail to his home address,  
14 19710 Chara Ct., Cypress, TX 77433. *See* Tex. R. Civ. P. 106(b)(2) (stating that once  
15 the serving party has unsuccessfully attempted any service method that does not  
16 require leave of court, the court may give leave to the serving party to perform  
17 service “in any other manner . . . reasonably effective to give the defendant notice of  
18 the suit.”).

22 Dated: October 3, 2024

23 /s/Nico Banks  
24 Nico Banks (CA SBN:344705)  
25 **BANKS LAW OFFICE**  
26 712 H St NE, Unit #8571  
27 Washington, DC 20002  
28 Tel.: 971-678-0036  
Email: [nico@bankslawoffice.com](mailto:nico@bankslawoffice.com)

1 Richard A. Nervig (CA SBN:226449)  
2 **RICHARD A. NERVIG, P.C.**  
3 501 West Broadway, Suite 800  
4 San Diego, CA 92101  
5 Phone: 760-451-2300  
6 Email: [richard@nerviglaw.com](mailto:richard@nerviglaw.com)

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
5 *Attorneys for Plaintiffs*

1 **WORD COUNT COMPLIANCE CERTIFICATION**

2 The undersigned, counsel of record for Plaintiffs, certifies that this brief contains  
3 fewer than 7,000 words, which complies with the word limit of L.R. 11-6.1

4 /s/Nico Banks

5 Nico Banks

6 Dated: October 3, 2024

7 **CERTIFICATE OF SERVICE**

8 On October 3, 2024, I served this motion and accompanying papers via first-class  
9 mail to the parties listed below with addresses below their names, and via email to the  
10 parties with email addresses below their names:

11 JARED DAY;  
12 19710 Chara Ct,  
13 Cypress, TX 77433

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing statements in this Certificate of Service are true and correct.

16 /s/Nico Banks

17 Nico Banks

18 Dated: October 3, 2024